

Application No.: 10/676,604

Docket No.: 29939/38777A

REMARKS

In the first, non-final office action, claims 1-17 were examined. Claim 10 stands rejected under 35 U.S.C. § 112, second paragraph, as being indefinite, but was also indicated to be allowable if rewritten to overcome the rejection and to include all limitations of the base claim and any intervening claims. The remaining claims stand rejected as being obvious under 35 U.S.C. § 103(a). The applicants request withdrawal of all rejections and the issuance of a Notice of Allowance based on the amended claim set and the following remarks.

Claim 10 is Allowable.

Applicants respectfully request withdrawal of the rejection to claim 10 under 35 U.S.C. § 112, second paragraph, for indefiniteness. The phrase "angles inward" is said to lack a basis as being "inward" of what. Claim 10 has been amended to recite that the left wall extends substantially perpendicularly away from the major wall, and in the area of the left notch, the left wall is generally non-perpendicular to the major wall. Thus, the phrase "angles inward" has been replaced with language that refers to angles relative to the major wall, and is therefore not indefinite.

Claim 10 has also been amended to be in independent format including the elements of claims 1 and 9, and, as indicated by the office action, is therefore allowable. Claims 18-23, which depend from claim 10, are also allowable.

Claim 1 is Allowable.

The applicants respectfully traverse the rejection to claim 1 over Inman, U.S. Patent No. 5,590,788 ("Inman") in view of Royce, U.S. Patent No. 2,316,457 ("Royce"), and the rejection to claim 1 over Inman in view of Weijers, WO93/11048 ("Weijers"). Claim 1 recites, in part, a left notch disposed in the left wall and a right notch disposed in the right wall, the left notch being disposed half way between the major wall and the minor wall, the right notch being disposed half way between the major wall and the minor wall. None of Royce, Inman, and Weijers teaches or suggests this feature.

Claim 1 has been amended to include the features of claim 5 and its intervening claim. Claim 5 stands rejected only over Inman in view of Royce. Claim 5 was not rejected over

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Inman in view of Weijers. Accordingly, the rejection to claim 1 over Inman in view of Weijers has been overcome.

Inman teaches a hooded tray with side panels 25 and 26 that overlap side panels 23 and 22, respectively. Inman does not teach that the side panels include any notches as recited in claim 1. All the more, Inman does not teach a notch being disposed half way between the major wall and the minor wall. Royce teaches a box with a sidewall that includes a notch 26 disposed approximately 1/3 of the way along the sidewall from the minor wall 20. Accordingly, neither reference teaches a notch disposed half way between the major and minor wall.

There is further no suggestion within the references for the recited construction of claim 1. Inman does not teach a notch at all, and therefore cannot suggest any type of notch. Further, Royce teaches directly away from a notch half way between the major and minor wall. In the paper box of Royce, the notch 26 defines a tab 28 in the sidewall 16. On the sidewall 16 near the major wall 18 is a slit 30 that extends along the wall approximately 1/3 of the length of the sidewall. When the trays are placed together, the tab 28 of the first tray is inserted into and through the slit 30 of the second tray. Thus, the slit 30 must be at least the same length as tab 28 and is preferably longer than the tab 28.

If a notch was disposed in the claimed location in the box of Royce, the tab 28 would be half the length of the box. The slit 30 would have to be at least half and preferably longer than half the length of the box. Thus the slit 30 would extend all the way to and into the notch 26. The slit 30 would be unsuitable for its intended purpose, because the slit could no longer securely maintain the tab 28, and because a portion of the sidewall 16 above the slit 30 (as oriented in Fig. 8) would flap about unconnected to the rest of the sidewall 16. There is simply no suggestion within Royce for such an undesirable construction. Accordingly, there is no suggestion within the applied references for the subject matter recited in claim 1. Claim 1 is allowable over the art of record, and therefore claims 2, 3, 6, 7, 8, and 9, all depending from claim 1, are also allowable.

Again, claim 1 as now pending recites the subject matter of original claim 5. If pending claim 1 is rejected in the next office action over any reference other than those cited against claim 5, this would be a new rejection to the subject matter of original claim 5, and the office action must be made non-final.

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Claim 11 is Allowable.

The applicants respectfully traverse the rejection to claim 11 over Inman in view of Royce, and the rejection to claim 11 over Inman in view of Weijers. Claim 11 recites, in part, that the notch on the left wall is disposed approximately midway along the length of the left wall and the notch of the right wall is disposed approximately midway along the length of the right wall. None of Royce, Inman, and Weijers teaches or suggests this feature.

Claim 11 has been amended to include the features of claim 12. Claim 12 stands rejected only over Inman in view of Royce. Claim 12 was not rejected over Inman in view of Weijers. Accordingly, the rejection to claim 11 over Inman in view of Weijers has been overcome.

The arguments regarding claim 1 apply with equal force with respect to claim 11. There is simply no teaching or suggestion within either Inman or Royce for a notch disposed approximately midway along the length of either the left wall or the right wall. Accordingly, claim 11 and its dependent claims 13-15 are allowable.

CONCLUSION

In view of the above amendments, applicant believes the pending application is in condition for allowance.

Applicant believes no fee is due with this response. However, if a fee is due, please charge our Deposit Account No. 13-2855, under Order No. 29939/38777A from which the undersigned is authorized to draw.

Dated: April 5, 2005

Respectfully submitted,

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